

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement
Portions of AB 117 Concerning Community
Choice Aggregation.

Rulemaking 03-10-003
(Filed October 2, 2003)

**ASSIGNED COMMISSIONER'S RULING AND
SCOPING MEMO FOR PHASE 2 ISSUES**

This ruling memorializes a prehearing conference held in this proceeding on January 25, 2005. It schedules dates for workshops, hearings, and preliminary pleadings required for Phase 2 issues.

Scope of Issues

The Commission issued Decision (D.) 04-12-046 on December 13, 2004, which resolved several Phase I issues in this proceeding relating to rates, costs, information requirements and policies for the Community Choice Aggregation (CCA) program legislated by Assembly Bill (AB) 117. The first scoping memo issued in this proceeding anticipated a second phase of this proceeding for resolution of operational issues. At the prehearing conference on January 25, 2005, the parties agreed that the following broad issues are appropriate subjects for Phase 2, consistent with Rulemaking (R.) 03-10-003 and D.04-12-046:

- Final costs and tariffs for all CCA-related and optional services;
- Operational Issues – distribution, metering, billing (including bundling billing processing fees,

- services transfers, unbundling customer bills, back up and balancing services, as required by D.04-12-046);
- Costs of customer re-entry associated with procurement and other liabilities;
 - Updated California Relay Service (CRS) forecasts;
 - Allocation of risk for collection and nonpayment by CCA customers;
 - CRS “Vintaging,” that is, the way to calculate the package of CRS liabilities for individual or “vintages” of CCAs;
 - “Credits or Liability for in-Kind Power,” that is, whether CCAs can somehow take delivery of or assume liability for Department of Water Resources (DWR) or utility power contracts that form the basis for the CRS;
 - Open Season procedures;
 - California Alternatives Rates for Energy (CARE) discounts for CCA customers;
 - CCA Implementation Plans, specifically the Commission’s role in reviewing and the process for reviewing and assuring consistency with utility tariffs and the law;
 - Provider of last resort, an issue to be resolved in the Commission’s procurement OIR but which must be coordinated in this proceeding;
 - Renewable Portfolio Standards (RPS), an issue to be resolved in the Commission’s procurement Order Instituting Rulemaking (OIR) but which must be coordinated in this proceeding;
 - CRS Credits for renewable technologies, an issue raised in Phase 1 but resolved in D.04-12-046;
 - Collection of and use of public goods charge (PGC) funds for energy efficiency programs, consistent with the Commission’s policies set forth in R.01-08-028.

In Phase 2, the Commission will not consider the provision of information by utilities to CCAs since related policies were resolved in Phase 1. However,

the Commission may be willing to resolve disputes on such issues that arise between a CCA and a utility to the extent those disputes raise issues that the Commission did not address in D.04-12-046.

Workshop Topics

At the prehearing conference, the parties agreed that many Phase 2 issues are appropriate subjects of workshops. They also generally agreed on the general topics that should be the subjects of workshops. These workshops would be held for the purpose of promoting understanding and narrowing the issues that must be litigated. The Commission will conduct the workshops with the objective of finding common ground among the parties in as many issue areas as possible.

The issues the Commission will explore in workshops are as follows:

- **Workshop 1- CRS Vintaging** -- This workshop, which is required by D.04-12-046, will explore the package of liabilities each CCA should assume considering that DWR and utility liabilities will change over time, and consistent with the discussion of this issue in D.04-12-046. The utilities should be prepared to discuss the assumptions underlying their updated CRS forecasts;
- **Workshop 2- Open Season Procedures and Policies** – This workshop will focus on how the utilities should conduct open seasons. Several parties addressed this issue in Phase 1, including SDG&E, whose proposal was tentatively endorsed in D.04-12-046. This and other proposals described in Phase 1 will form the basis for discussion of more detailed procedures and policies for CCA open seasons;
- **Workshop 3- Tariffs** – This workshop will explore the utilities' proposed tariffs for all aspects of the CCA programs, including operations, rates and charges, and services. The objectives of this workshop are threefold: (1) to assure parties understand the utilities' proposals and

how they would interact with CCA operations and programs; (2) to determine whether and how parties dispute elements of the proposed tariffs, and; (3) to promote agreement and compromise among the parties on disputed tariff elements;

- **Workshop 4- CCA Implementation Plans** – This workshop will explore the procedures and nature of the Commission’s review of CCA implementation plans, which must be submitted to the Commission in compliance with AB 117; and
- **Workshop 5- Credits and Liability for In-Kind Power**– This workshop, required by D.04-12-046, will explore whether and how a CCA could take delivery of or get credit for DWR or utility power that is the source of a liability calculated in the CCA’s CRS.

Phase 2 Schedule

Phase 2 of this proceeding is scheduled as follows:

Utility tariffs served	February 14
Utility tariff summaries served	February 21
Parties’ questions about or Objections to utility tariff elements served electronically	February 28
Workshop 1	March 3
Workshop 2	March 9
Workshop 3	March 17
Workshop 4	March 22
Workshop 5	March 25
Third Prehearing Conference	March 30
Testimony served	April 18
Reply testimony	May 3
Rebuttal testimony	May 11

Hearings, if needed

May 23 – 31

The schedule includes dates for service of testimony although, at this point, it is not clear which topics may require testimony. The Commission will determine which subjects should be explored in formal testimony during the course of the workshops and on the basis of discussions at the third prehearing conference workshop times, locations and agendas will be noticed separately.

The utilities may file a notice of availability of tariffs rather than serving tariffs on all parties if the notice is timed so that any party requesting tariffs may receive them no later than February 14. At the prehearing conference, the utilities agreed that the tariffs will identify how each element differs from Rule 21 tariffs for direct access providers.

The assigned Administrative Law Judge (ALJ) may modify this schedule as necessary for the efficient and effective management of this proceeding.

Other Procedural Matters

Pursuant to Section 1701.5(b), this scoping memo clarifies that all issues in both phases of this proceeding will not be resolved within 18 months of the first scoping memo, dated December 3, 2003. The reason for the extension of time to complete review of these matters is that the development of a CCA program requires a review of dozens of ratemaking, service and policy issues.

At the request of virtually all active parties in this proceeding, the Commission bifurcated this proceeding in order to consider issues that implicate the costs of operating as a CCA before addressing operational issues. This bifurcation, combined with a need for hearings and workshops to resolve many of the outstanding issues, causes the proceeding to extend beyond the 18-month period anticipated by § 1701.5.

The parties should refer to the scoping memo issued in this proceeding on December 4, 2003 for guidance on other procedural matters.

IT IS RULED that:

1. The scope of Phase 2 in this proceeding is as set forth herein.
2. The schedule for Phase 2 in this proceeding is as set forth herein.
3. The Commission will conduct a prehearing conference in this proceeding at 3:00 p.m. on March 30, 2005 in the Commission Courtroom, State Office Building, 505 Van Ness Avenue (at McAllister) San Francisco, California.
4. The Commission will conduct an evidentiary hearing in this proceeding on May 23, 2005 at 10:00 a.m.

Dated February 3, 2005, at San Francisco, California.

/s/ Kim Malcolm
Kim Malcolm
Administrative Law Judge

/s/ Michael R. Peevey
Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner Ruling and Scoping Memo for Phase 2 Issues on all parties of record in this proceeding or their attorneys of record.

Dated February 3, 2005, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.